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Backup Plans

ALTERNATIVE CITIZENSHIP AND
RESIDENCE IS MISSION CRITICAL

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Backup Plans: Alternative Citizenship and Residence is Mission-Critical

How a Backup Plan is more essential than ever for protecting your family's well-being and wealth

Early in 2018 I published a white paper about the wisdom of a properly designed and implemented Backup Plan for HNW families - to protect their assets in uncertain times. At the time I listed some of the risk-inducing events that had dominated the previous year's news cycle:

- Multiple *Category 5* hurricanes in the same month hitting the US mainland and territories causing massive destruction;
- Equifax and other huge data breaches;
- Russia meddling in US Presidential elections;
- North Korea nuclear weapons systems which could hit US military targets and soon the US mainland itself;
- The UK negotiating to separate from the EU;
- Catalonia voting to separate from Spain;
- Economic and political gridlock in Brazil as a result of a widespread corruption investigation; and
- A new *de facto* leader of Saudi Arabia arresting hundreds of royal family members and prominent business-people and seizing almost a trillion dollars of their assets.

Yet More Destabilising Events

It is now the end of 2020 and most of the 2017 threats have not been resolved. Indeed, most have gotten worse. Meanwhile, over the past three years several other threats



have emerged to make the world even more unstable and uncertain. This includes a deeply divided US electorate and dramatically increased civil tension which portends significant future civil unrest from isolated violent acts to wholesale clashes between opposing factions.

While I write this paper in December 2020, there is significantly more uncertainty and risk...and by extension even more reasons for HNW individuals and families to start to prepare their Backup Plans. This includes an as yet undetermined control of the US Senate and its resulting impact on the course of the incoming US administration.

The Black Swan

Enter the Coronavirus – which has rewritten the rulebook for risk assessment and management in real time. If you consider the risks listed above, they more or less fell into one of five categories: political/legal, economic, social, technological and environmental. What makes the Coronavirus different is not that it has impacted more than one or two categories...it has impacted all five! As a result, HNW individuals and families had better take notice and plan accordingly if they wish to protect their wealth in the long-term:

...the most important lesson of history endures. The impact of any pandemic goes well beyond lives lost and commerce curtailed. Today, America faces a fundamental choice between defending the status quo and embracing progressive change. The current crisis could prompt redistributive reforms akin to those triggered by the Great Depression and World War II, unless entrenched interests prove too powerful to overcome.

“Why the Wealthy Fear Pandemics”
Walter Scheidel - Professor of Classics and History at Stanford University.
April 9th 2020 New York Times



In other words, the years to come will be marked by significant uncertainty...and a clash of ideas that could possibly go beyond mere words. And not just in the United States.

Ian Bremmer, CEO of the Eurasia Group predicts:

1. *Greater divide between emerging and developed markets*
2. *Growing realignment in economic balance and trajectory between east and west*
3. *Erosion of the global middle class*

These will result in:

...a rise in social instability...some developing regimes implode...a spike in refugee populations nobody wants...and radicalism that has long-term potential to develop into terrorism.

**Ian Bremmer, CEO of The Eurasia Group,
Newsletter W/o April 5**

Preparing for an uncertain future by creating a proper Backup Plan Now!

To the great distress of many wealthy families throughout history, preparation for adverse events is too often either non-existent or incomplete. This fundamental planning failure has been constantly repeated over the centuries and several times during the 20th century. Many families who could have avoided these existential threats by a Backup Plan did not take this prudent precaution. As a result, they were decimated by pogroms, WWII, various smaller wars, expulsions and genocides.



Even those wealthy families lucky enough to escape alive often found themselves destitute. The impact of this fundamental failing to plan for the worst was indelibly inscribed in my brain my first year of being a lawyer.

In August 1990 I received a desperate phone call from an UHNW Kuwaiti client who was in London. Like many wealthy Gulf Nationals, this client was outside of the searing hot Arabian Gulf when Saddam Hussain invaded Kuwait. In order to prevent wealthy Kuwaitis from being blackmailed over their family members who had been captured during the invasion, the US and the UK governments froze Kuwaiti assets in their countries. As a result, my client was in dire financial straits because his family and entourage (nannies, maids, security people etc.) were occupying almost an entire floor of a luxury London hotel....and his credit card was not working and he had no access to his private banking assets.

Fortunately for my client, he had previously retained my Canadian firm to assist him in the purchase of several luxury penthouse condos in Toronto. As a result, he had placed approximately US\$5M in our firm's trust account to be paid out as construction milestones were reached. As Canada had NOT frozen Kuwaiti assets, he agreed to cancel his condo deals and lose the 10% deposit. Over the next year we paid out from our trust account his various bills until he regained access to his frozen funds.

After the dust had settled on the Gulf War, I worked with this client to set up an effective Backup Plan. First, we secured several backup residences in jurisdictions where he and his family could live and thrive should there be another invasion of Kuwait. His other fear was that there might be a revolution in Kuwait similar to the one in Iran in 1979. Consequently, every alternative backup residence included a home, the immigration right to live in that country, and access to backup funds which would allow him to pay for their expenses. Key to the planning was the requirement that maintaining these alternative residences would NOT subject him to worldwide taxation or excessive physical presence requirements.



In addition to alternative residences, we also immediately secured a second citizenship and passport for every member of his family. I had previously informed him that passports are the property of the issuing government. In other words, “his Kuwaiti passport” was not his but rather one that the Kuwaiti government allowed him to use. Accordingly, in the future should there be an overthrow of the Kuwaiti government, a new revolutionary council would likely cancel the passports of all members or top supporters of the prior regime. If this occurred while in Kuwait, he would be unable to travel abroad. If he were outside of Kuwait, he would be “invited to return home” to renew his cancelled travel document. The possession of a second citizenship and passport avoided such a potential catastrophe for his family.

Rules of Success for an effective Backup Plan?

As I learned from my Kuwaiti client and through helping scores of clients over the last three decades, an effective Backup Plan is mission-critical. It allows a wealthy individual and family to deal with potential future negative events...from whatever source. Furthermore, unlike fire insurance, an effective Backup Plan is not only a lifesaver in times of strife. It also allows the family to immediately take full advantage of business, education, and lifestyle opportunities in a globalised world.

The choice by my own ancestor to immigrate from France to Canada in the 1600s had a profound impact on his life and those of the generations that followed. In the same way a properly designed, executed and maintained Backup Plan will be the most major factor in your descendants’ health, wealth and happiness.

With so much at stake and the “cost of failure” being so high, it is essential to get it right. So, let’s now look at the “Four Rules of Success” for an effective Backup Plan for HNW families.



Rule 1: Your family’s situation, concerns and goals are unique.

While there are certainly some commonalities between wealthy families with a given jurisdiction, each family will have just as many facets which are unique to their own particular circumstances. These might include:

- Type and level of urgency and concern about potential threats
- Family history for both lineage citizenship claims and family ethos
- Number, age, and marital status of family members
- Liquid assets to devote to a Backup Plan
- Annual after-tax income necessary to maintain lifestyle
- Capital gains (amount and location)
- Annual income (type and source)
- Business succession and estate planning
- Potential divorce issues for all adult family members (*Remember “Tax is a percentage of Income...Divorce is a percentage of Capital!”*)

Rule 2: Your Backup Plan must be sold at both the boardroom table (i.e. make financial sense) AND the breakfast table (i.e. make sense to the entire family).

First, the cost of acquiring and maintaining your Backup Plan must be less than the “*Cost of Failure*”. The “*Cost of Acquisition*” can be measured in terms of both money (upfront and on-going) and physical presence. The Cost of Failure is the financial and personal cost to your family’s well-being and wealth of a single negative event or combination of simultaneous negative events.

Secondly, even if the benefits of your Backup Plan outweigh its costs, it must also be “*livable*” by the family members it is mean to protect and benefit.

By way of illustration, I am occasionally contacted by someone who has gone through a tax audit, divorce or a lawsuit who asks me to help them “*Move to a rock in the middle of the ocean without any taxes or lawyers.*” My standard response is that this can easily be accomplished BUT I tell them they may want to pack a gun in their luggage. When asked “*Why?*”, I respond, “*...within six months either your family will want to kill you or you will want to kill yourself.*”



This glib response invariably prompts a frank discussion about their family and business needs and preferences such as language, accessibility, infrastructure, schools, medical facilities, rule of law, adequate staffing etc. This fruitful discussion then gives me the information to propose a Backup Plan with elements make both financial and personal sense.

Rule 3: The selection of a property is the LAST, not the FIRST decision.

Too often I am approached by a potential client who has already attended a real estate exhibition and fallen for a pitch from a commissioned salesperson for a particular Citizenship by Investment or Residence by Investment real estate product. The potential client then asks my team to design a Backup Plan around this chosen property.

Unfortunately, by the time we have worked through the factors that are outlined in Rule 1, we quite often discover that the jurisdiction of the purchase property is either not the best choice or even a useful choice.

The proper sequence of decision-making is as follows:

1. Review all the issues noted in Rule #1;
2. Have professional advisors work together to design a Backup Plan which adheres to Rule #2; and
3. Select and secure property(ies) and residence/citizenship status in the appropriate jurisdiction(s) as part of the execution of the Backup Plan.



Rule 4: The bitterness of poor advice lasts long after the sweetness of a low price is forgotten.

Clients need to understand the knowledge, experience and financial motivation of the individual or firm who is offering them advice. Too often this “advice” is given (and believed) by inexperienced or unqualified salespeople whose sole motivation is to sell whichever product will pay **them** the highest commission. They are not trained or motivated to advise the potential customer of alternatives that may better meet the client family’s needs. Nor are they trained or motivated to advise the client of significant future costs of their product such as worldwide taxation or significant physical presences requirements. Clearly, such information would be directly opposed to the salesperson’s financial benefit in closing the sale.

Sadly, even those clients who seek out professional advice are too often fatally short-changed. This failure typically usually arises from one or both of the following “*Silo Effects*”:

1. Jurisdictional; and/or
2. Relevant areas of law

With regards to the Jurisdictional Silo, most professionals are only familiar with their own jurisdiction’s rules. US lawyers tend to only know US law. UK lawyers tend to only know UK law...and so on with each jurisdiction.

With regards to the Relevancy Silo, immigration professionals normally only provide immigration advice. Likewise, tax and family law lawyers tend to only provide advice (if even asked) about the impact of their respective areas of law.

The critical importance of family law issues was driven home when one of my new clients informed me of his earlier move to the UK. While the Remittance Tax Regime was attractive from a global tax perspective, by moving into [the Divorce Capital of the World](#), he had took a major hit to his wealth during a subsequent divorce action. Too many HNW individuals ignore this issue because at the time they are not in a potential



marital breakdown situation. Unfortunately, they ignore the reality that statistically half of their pre-adult children will be divorced in their lifetimes. This can have a major negative impact on the family's multi-jurisdictional wealth unless the danger is recognised and avoided by planning.

The final mistake that HNW individuals often make is that they do not understand the ethical rules around conflict of interest and hidden fees. Too often they are seduced into retaining an advisor who offered them low fees. What they do not know (or have not been told) is that the "advisor" was be paid a significant undisclosed commission from the Residence or Citizenship by Investment product that they recommend. Usually this undisclosed commission was several times more than the "fee" they charged to the client. In my opinion this is an inherent conflict of interest, and as such the purchaser can never be certain if the advice given was in their best interests or in the best financial interest of the salesperson / advisor.

For this reason, clients should only seek advice from professionals that have never applied to be a marketing agent for a country or development that has a Residence or Citizenship by Investment product. Instead, your advisors should be paid directly by YOU to provide advice which in their professional experience is in YOUR best interest. If the Backup Plan contains elements where there is a Residence and/or Citizenship by Investment that pays a commission, this must be fully disclosed and you should demand where to direct that commission to be paid (i.e. to yourself or your family).



Elements of an effective Backup Plan

An effective Backup Plan includes the following:

A) Alternative Citizenships:

Citizenship is granted pursuant to the domestic law of the country granting that citizenship. Many countries incorporate one or both of the legal concepts of *Jus Sanguinis* or *Jus Soli*. *Jus Sanguinis* (Latin for right of blood) is a principle of nationality law by which citizenship is not determined by place of birth but by having one or both parents or grandparents who are citizens of the state. *Jus Soli* (Latin for right of the soil) is commonly referred to as "birthright citizenship". It is the right of anyone born in the territory of a state to nationality or citizenship.

In addition, many countries incorporate into their domestic nationality laws a method for an individual to "earn" citizenship through naturalisation. Naturalisation laws can take many forms and can include the following:

1. Meeting certain religious criteria: e.g. Israel's Law of Return or Portugal's Sephardic Jewish descendant citizenship program;
2. Meeting certain physical presence, tax residence, language and local knowledge criteria: i.e. traditional naturalisation in western countries;
3. Citizenship by Investment: The traditional naturalisation requirements are waived where specific economic contributions are made; and
4. General Authority: In many countries the power to grant citizenship is granted to some government office or body on their own criteria such as contribution to the state in sports, humanities, art, economic benefit, etc.

Lineage Citizenship

When developing a robust citizenship component of a Backup Plan, it is essential that an in-depth examination of the family history be undertaken. If possible, the family history should go back at least to the great-grandparents of the current oldest family



members. In certain situations (e.g. Sephardic Jewish claims to Portuguese citizenship), certain surviving family or cultural indicators are looked at to establish a more distant claim. Generally speaking, lineage citizenships that can be acquired through family or religious means are from large developed countries which offer excellent rights (e.g. the [right to live throughout the EU](#)), visa-free travel and credibility.

Residence by Investment leading to Citizenship

For many families, acquiring Residence by Investment in a country where they could become naturalised in the future is a viable pathway to an alternative citizenship.

Generally speaking when evaluating such programs there are several elements that need to be examined:

1. Is the residence obtained by i) Government contribution; ii) Investment in the country (guaranteed? liquid? mandatory hold period?); iii) Purchase of Residential Real Estate; or iv) investment in your own business or Start-up?;
2. Is the status permanent or time limited with permanent status only granted after meeting future requirements?
3. Is future naturalisation possible? If yes, what are the physical presence and other requirements?
4. What are the additional costs? Which family members can be included (e.g. non-minor children, grandparents)?
5. Are there accompanying tax obligations (income, capital gains, wealth, gift, estate) and are they domestic or worldwide? Tax planning opportunities? What is the actual level of tax liability?
6. What are the physical presence requirements to maintain the residence? Qualify for permanent residence? Qualify for citizenship?
7. Are there adverse potential family law rules? Can they be overcome by asset protection planning?



8. Are there Investment Treaty opportunities to protect assets in the home country or elsewhere as a result of residence?

Citizenship by Investment

Citizenship by Investment programs are widely advertised on the internet and in the press. Often the “consultants” who promote these programs proudly proclaim that they are “licensed” or even “exclusive” marketing agents of the government offering these programs. As noted in Rule 4 above, the status of marketing agent for a specific government or project inherently puts them in a conflict of interest.

Generally speaking when evaluating such programs there are several elements that need to be examined:

Potential Instant Deal Breakers

1. What is the status being granted? (e.g. Honorary Citizenship is like being honorarily pregnant...it doesn't produce the desired result!):
2. Does the country publish the names of new citizens?

Other Considerations if No Deal Breakers

3. What is the processing time?
4. What is the Investment? Government contribution? Investment? or Real Estate (existing or future build; hold period; real market value or inflated; maintenance cost; revenue generating)?
5. What are the additional costs? Which additional family members can be added?
6. Are there rights to reside in additional countries (e.g. EU)?
7. On what basis can the citizenship be revoked? Arbitrary or according to rule of law?



8. Can citizenship be passed on to future generations?
9. How easily can passports be replaced when full, lost or expired?
10. *Are there Investment Treaty opportunities to protect assets in the home country or elsewhere as a result of citizenship?*
11. *Visa-free travel? (Note: This feature is **wildly overemphasized** in the press and by salespeople. Generally speaking most clients don't travel to 183 countries. They are concerned about whether they can go to a handful of countries where they actually want to travel. Remembering that many clients supplement a Citizenship by Investment with a Residence by Investment, they either a) enjoy visa-free travel or b) have NO difficulty in getting a visa service to get long-term multiple entry visas for a few hundred dollars)*

B) Alternative Homes and Business Locations

A few years ago, I had a client situation which dramatically demonstrates the value of one or more alternative homes and business locations as part of a Backup Plan. Along with securing an alternative citizenship, I arranged for a US client to have a Work Permit in Canada. This included a Work Permit for his spouse and Student Permits for his school age unmarried children. It was important for this client that the acquisition of this immigration status DID NOT automatically make anybody in their family tax resident in Canada. This is true even if Canadian Permanent Residence (i.e. Landed Immigrant) status is obtained.

In addition to the Work and Study Permits, the client purchased a condominium in Montreal where the costs of mortgage, interest, insurance and condo fees had been covered by the rental income he had been getting from Airbnb. The client also set up a satellite "mirror" back office of his US operations with a part-time local employee, file cabinets and a computer server at a shared work office in Montreal. As part of his Backup Planning, the client also updated his US home and business interruption insurance.



When the U.S. National Weather Service began to warn that a Category 5 hurricane was likely to hit their hometown, my client sprang into action. First, he cancelled the upcoming Airbnb reservation on his condo and booked flights for himself and his family to Montreal. He also asked to temporarily expand his office space and arranged for two of his key employees to temporarily relocate to Montreal. Since this was happening at the beginning of a school year, my client also quickly enrolled his high school age children in private schools for that school year. This was all quickly achieved because the children already possessed valid Student Permits.

By the time the hurricane hit and rendered his home and business premises uninhabitable, my client and his family were safely in Montreal and able to continue with their personal and family lives uninterrupted. His business was also able to operate seamlessly.

In choosing the right alternative home or homes, an effective Backup Plan must take into account all the factors noted in Rule #1 and must fulfil Rule #2. The selection should also look at all the elements I outlined previously in evaluating Residence by Investment programs. As noted above, these alternative homes should also “*Do No Harm*” to the family’s tax position. As an added benefit, these alternative residences might also give some family members the ability to relocate temporarily or permanently for educational or career opportunities.

The Covid-19 pandemic highlighted the importance of not simply relying on visa-free or visitor visas to seek entry into jurisdictions where one might have an alternative home or business location. In responding to the pandemic, almost every single country on earth restricted entry to citizens, residents or those who held work permits. This is the new reality, so HNW families need to pay attention to this requirement.



C) Alternative Financial Resources

As illustrated by my Kuwaiti client, having your family safe in an alternative residence but not having the financial means to maintaining them or your business is not ideal. The only thing worse is that your assets are safe, but you and your family are in danger or trapped.

To avoid these situations, a Backup Plan needs to ensure that appropriate alternative financial resources are available for use if needed. It is worth noting that the location of these alternative resources does not necessarily need to be in the same jurisdictions as your family's alternative residences. In fact, given tax and privacy issues they are often NOT in the same jurisdiction.

D) Complementary Services

Depending on the specific client family threats and concerns, it may also be prudent for the Backup Plan to include additional services such as:

- Global Medical Coverage
- Kidnapping and Evacuation Insurance
- Security reviews and Services
- Educational Consulting
- Geopolitical Intelligence Services (so that you can see when threats may be becoming imminent)

E) Maintaining Effectiveness

As noted at the beginning of this paper, threats often arise or become more or less important over time. Given that your family's Backup Plan is meant to provide safety and opportunities beyond your lifetime it is important to incorporate a consistent monitoring, update and educational element to maintain effectiveness.

Given that properly constructed Backup Plans are a symphony of tax, asset protection, succession planning and lifestyle, do it yourself plans will certainly fail. The cost of



failure could well be your family's freedom and all your assets. Advice from 'salespeople' who push real-estate linked 'products' will not be a recipe for success. They inevitably push the product that pays the highest commission, and that may not be in your best interest. The reality is the market is full of unscrupulous salespeople. These individuals often mislead victims into thinking that residence programs are actually citizenship or outright scam them.

When considering a second passport or residence, remember that the purpose of the exercise is to protect your family. This protection must be robust both in times of crisis and over a lifetime. Your first step must be to calculate the "cost of failure". You will quickly realise it is well worth spending some time, energy and money on qualified, experienced advice.

GET A BACKUP PLAN NOW!

If you have read this far into this paper, it is because at least some part of you is worried about the future for your family. As I hope I have helped to clarify, if you presently have the financial wherewithal, it might appear to future generations that you were a little derelict if you did not recognise today's threats to your family's well-being and wealth.

After admitting to yourself that the threats are real and life-altering, I hope that this paper has served to give you a roadmap for getting the expert help that you need. Creating an effective Backup Plan now will preserve your good fortune for generations to come. As a final thought, I leave you with the words of Thomas Edison...

**Good fortune is what happens when opportunity
meets with planning.**

